

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF PENNSYLVANIA**

INDECK KEYSTONE ENERGY LLC,)
)
Plaintiff,)
)
v.) Civil Action No. 04-325 Erie
)
VICTORY ENERGY OPERATIONS) Judge Sean J. McLaughlin
LLC,)
)
Defendant)
) JURY TRIAL DEMANDED

**DEFENDANT/COUNTER-PLAINTIFF'S MOTION FOR LEAVE TO FILE BRIEF IN
EXCESS OF 25 PAGES, INSTANTER**

Defendant/Counter-Plaintiff, Victory Energy Operations LLC (“VEO”), through its respective undersigned counsel, requests this Court to file *VEO'S RESPONSE BRIEF IN OPPOSITION TO IKE'S MOTION FOR PARTIAL SUMMARY JUDGMENT AND REPLY BRIEF IN SUPPORT OF VEO'S MOTION FOR PARTIAL SUMMARY JUDGMENT, Instanter*, and in support states the following:

1. On January 20, 2006, VEO filed its Motion for Partial Summary and Memorandum of Law in Support of VEO's Motion for Partial Summary.
2. On March 6, Plaintiff/Counter-Defendant Indeck Keystone Energy LLC filed the following documents related to the issues addressed in VEO's January 20th motion:

- IKE's Brief In Opposition to VEO's Motion for Partial Summary Judgment on Count I of VEO's Amended Counterclaim and IKE's Complaint (25 pages);
- IKE's Motion for Partial Summary Judgment on Counts I, IV, V and VI of IKE's Complaint;
- IKE's Memorandum of Law in Support of Its Motion for Partial Summary Judgment on Counts I, IV, V and VI of IKE's Complaint (25 pages);

- IKE's Statement Of Uncontested and Material Facts in Support of Its Motion for Partial Summary Judgment on Counts I, IV, V and VI of IKE's Complaint (39 pages);

3. In addition, on March 6, 2006, IKE filed the following documents

unrelated to the issues addressed in VEO's January 20th motion:

- IKE's Motion for Partial Summary Judgment on Counts II - V of VEO's Amended Counterclaim;
- IKE's Memorandum of Law In Support Of Its Motion for Partial Summary Judgment on Counts II - V of VEO's Amended Counterclaim (15 pages);
- Exhibits 1-6 to IKE's Memorandum of Law In Support Of Its Motion for Partial Summary Judgment on Counts II - V of VEO's Amended Counterclaim.

4. The motion and supporting documents identified in paragraph 3 are

separate and distinct from those in paragraph 2, as paragraph 3's documents relate to IKE's motion to dismiss counts II-V of VEO's Second Amended Counterclaim. Accordingly, VEO has prepared and will file a separate response to that motion.

5. As the briefs identified in paragraph 2, above, related to the same issues,

VEO prepared a single brief in response/reply to the relevant pending motions.

6. VEO sought to address completely and fairly all of the arguments raised in

IKE's 50 pages of total briefs filed on the issue. As a result, VEO's brief totals 31 pages, exceeding by 6 pages the total permissible number of pages pursuant to the Court's standing order.

7. VEO sought IKE's concurrence in this motion, and counsel for IKE has

indicated IKE has no objection to the instant motion being granted.

WHEREFORE, Defendant/Counterplaintiff requests that this Court grant the motion and enter an order granting VEO leave to file *VEO'S RESPONSE BRIEF IN OPPOSITION TO IKE'S MOTION FOR PARTIAL SUMMARY JUDGMENT AND REPLY BRIEF IN SUPPORT OF VEO'S MOTION FOR PARTIAL SUMMARY JUDGMENT, Instanter.*

Dated: April 10, 2005

Respectfully submitted,

/s/ Christopher T. Sheean
One of the Attorneys for Plaintiff,
VICTORY ENERGY OPERATIONS, LLC

Christopher T. Sheean
Wildman, Harrold, Allen & Dixon LLP
225 W. Wacker Drive, 28th Floor
Chicago, IL 60606
(312) 201-2997
Facsimile: 312-201-2555

LOCAL COUNSEL:

G. Jay Habas
Marshall, Dennehey, Warner
Coleman & Goggin
1001 State Street, Suite 1400
Erie, PA 16506
(814) 461-7800
PA ID No. 55581

Counsel for Victory Energy Operations, LLC